

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Harold Rodriguez	Team: Squad #5	CCRB Case #: 201601900	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 02/29/2016 4:50 PM	Location of Incident: Northeast corner of Fountain Avenue and Stanley Avenue		Precinct: 75	18 Mo. SOL 8/29/2017	EO SOL 8/29/2017
Date/Time CV Reported Wed, 03/02/2016 10:05 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 03/08/2016 11:01 AM		

  

Complainant/Victim	Type	Home Address

  

Witness(es)	Home Address

  

Subject Officer(s)	Shield	TaxID	Command
1. SGT Shibu Madhu	04772	944754	075 PCT

  

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Nicholas Dangelo	17302	957511	075 PCT
2. POF Lian Moy	6754	956116	075 PCT
3. POM Brett Goldberg	14917	955951	079 PCT

  

Officer(s)	Allegation	Investigator Recommendation
A.SGT Shibu Madhu	Abuse: Sergeant Shibu Madhu searched § 87(2)(b)	
B.SGT Shibu Madhu	Abuse: Sergeant Shibu Madhu authorized the frisk of § 87(2)(b)	
C.SGT Shibu Madhu	Abuse: Sergeant Shibu Madhu questioned § 87(2)(b)	

### Case Summary

§ 87(2)(b) filed the following complaint with IAB on March 2, 2016 via telephone, generating log number 16-7485. The complaint was received at the CCRB on March 8, 2016.

On February 29, 2016, at approximately 4:50 p.m., § 87(2)(b) was pulled over for excessive tints at the corner of Fountain Avenue and Stanley Avenue in Brooklyn by Sgt. Shibu Madhu and PO Nicholas D'Angelo. After providing his license and registration, PO D'Angelo arrested § 87(2)(b) for an open warrant from 2012. § 87(2)(b) and § 87(2)(b) who sat in the front passenger seat and back seat respectively, were asked to step out of the vehicle. When § 87(2)(b) removed her hand bag from the vehicle, Sgt. Madhu asked her to open it. Sgt. Madhu looked into the bag with his flashlight (**Allegation A**). A female officer who arrived in a second vehicle, identified through the investigation as PO Lian Moy of the 75<sup>th</sup> Precinct, then frisked § 87(2)(b) (**Allegation B**) and searched her pockets as directed by Sgt. Madhu (**within Allegation A**). Sgt. Madhu then went into the back of the police vehicle and questioned § 87(2)(b) about a previous gun-related arrest and asked if he knew anyone with guns and drugs (**Allegation C**). § 87(2)(b) was taken to the 75<sup>th</sup> Precinct stationhouse and PO Moy drove his vehicle to the stationhouse.

There is no video associated with this case.

### Mediation, Civil and Criminal Histories

- This case was ineligible for mediation due to § 87(2)(b)'s arrest.
- On April 19, 2016 § 87(2)(b) called the undersigned investigator and expressed that he was ready to file a lawsuit. An updated notice of claim request was sent to the NYC Comptroller's office on April 22, 2016 and the results will be added to the case file upon receipt.

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### Civilian and Officer CCRB Histories

- § 87(2)(b) had one previous complaint which was referred to OCD in 2008 (BR 02).
- Sgt. Madhu has been a member of service for 8 years and has 38 allegations against him across 17 cases.
  - In CCRB 200912984, he had allegations of force and entry substantiated against him. The CCRB recommended charges and the NYPD took no disciplinary action.
  - In CCRB 201308582, he had an entry allegation substantiated against him. The CCRB recommended instructions and the NYPD gave him formalized training.
  - In CCRB 201509833, he had a stop allegation substantiated against him. The CCRB recommended Command Discipline A and the NYPD has not come to a disposition yet.
  - § 87(2)(g)

### Potential Issues

- PO Nicholas D'Angelo resigned from the NYPD as of March 27, 2016. He was therefore not interviewed and his memo book could not be obtained.

## **Findings and Recommendations**

### **Allegations not pleaded**

- § 87(2)(b) was initially pulled over for excessive tints and was charged with them in his arrest. Additionally, § 87(2)(b) and § 87(2)(b) admitted that the vehicle had excessive tints. § 87(2)(g)
- It was alleged that PO Moy looked around the seat of § 87(2)(b)'s vehicle before sitting in it and driving it to the stationhouse. § 87(2)(g)
- Although it was alleged that PO Moy searched § 87(2)(b) the investigation determined that Sgt. Madhu began the search of § 87(2)(b) by searching her bag and PO Moy continued the search on his behalf since he is a male. § 87(2)(g)

### **Allegation A – Abuse of Authority: Sergeant Shibu Madhu searched § 87(2)(b)**

### **Allegation B – Abuse of Authority: Sergeant Shibu Madhu authorized the frisk of § 87(2)(b)**

### **Allegation C – Abuse of Authority: Sergeant Shibu Madhu questioned § 87(2)(b)**

§ 87(2)(b) was pulled over for excessive tints on the corner of Fountain Avenue and Stanley Avenue in Brooklyn. § 87(2)(b) provided his license and registration to Sgt. Madhu and PO D'Angelo. Sgt. Madhu returned to § 87(2)(b) and told him he had an open warrant from 2012 for § 87(2)(b) and asked him to step out of the vehicle. § 87(2)(b) was arrested and placed into a marked police vehicle. A second police vehicle arrived with PO Moy as the driver. § 87(2)(b) saw PO Moy search his wife, § 87(2)(b) and her purse. However, § 87(2)(b) alleged that PO Moy searched her pockets and that Sgt. Madhu searched her purse. § 87(2)(b) was consistent that Sgt. Madhu searched the purse. Sgt. Madhu then got into the back of the police vehicle with § 87(2)(b) and stated, "If you tell me who has guns and drugs I'll let you go right now." and asked him about a gun related arrest from § 87(2)(b). Since § 87(2)(b) had a suspended license and § 87(2)(b) did not have a license, PO Moy drove § 87(2)(b)'s vehicle to the stationhouse.

Sgt. Madhu stated that he did not recall if § 87(2)(b) or § 87(2)(b) were frisked or searched. He did not recall an Asian female officer or PO Moy specifically being at the scene of the incident. Sgt. Madhu admitted that he asked § 87(2)(b) if she wanted to take anything out of § 87(2)(b)'s vehicle. § 87(2)(b) took out her purse and he asked her to open the bag to make sure there was no contraband inside. Sgt. Madhu looked into the bag but did not put his hands inside. Sgt. Madhu also stated that he probably asked § 87(2)(b) about guns and drugs because he asks that to all of the people he arrests in his precinct.

PO Moy stated that she was called to the scene by Sgt. Madhu over her cellphone. When she arrived at the location, Sgt. Madhu instructed her to frisk § 87(2)(b). PO Moy was not given any reason for the car stop or for why she needed to frisk § 87(2)(b). PO Moy stated that she was following orders when she frisked § 87(2)(b) and that she also frisked her for her own general safety. PO Moy did not go into any pockets and only patted around the sweater pocket area and waistband. PO Moy did not go into § 87(2)(b)'s bag and did not see any officer do so. She was then instructed by Sgt. Madhu to drive § 87(2)(b)'s vehicle to the stationhouse. PO Moy did not search the vehicle before getting into it.

According to *People v. DeBour*, 40 N.Y.2d 210 (1976) (BR), in order for an officer to ask questions of an accusatory tone or nature, or perform a frisk of an individual, he or she must have founded suspicion that criminality is afoot.

§ 87(2)(g)

§ 87(2)(g)

Squad:

Investigator: \_\_\_\_\_  
Signature Print Date

Squad Leader: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date